

New York Considers Plans for Area West of Midtown

By Robert S. Cook, Jr.

At any given time, New York's Department of City Planning is preparing plans for some parts of the city. These plans can include zoning changes, as well as investments by the city in infrastructure. They can entail area-wide changes to the zoning map, changes to the zoning law, and/or the implementation of special zoning districts. A major new proposal is now in the works.

Even as the evolving plans for the reconstruction of the World Trade Center site are being widely discussed and publicized, the Department of City Planning is now in the process of developing a plan that has the potential to be of long-term significance to the city equal to or greater than the rebuilding at Ground Zero. That plan is for the area between 28th and 42nd Streets from Eighth Avenue to the Hudson River, which is referred to as the "Hudson Yards." The need for this plan is evident. Services are the city's economic lifeblood. As that sector grows, the need for buildings in which to house it is also growing. At the same time, the principal central business district—Midtown Manhattan—is running out of land to absorb significant new office building development. The only direction where significant expansion can occur is to the west.

Hudson Yards Area Ripe for Reuse

The area west of Eighth Avenue and south of 42nd Street is underutilized, containing a mix of uses, including warehouses, garages, parking lots, a Long Island Railroad storage yard, and the Javits Convention Center. The area contains relatively little housing. The Javits Center itself is in need of enlargement. As the 17th largest convention center in the U.S., it is too small to accommodate some 60 annual conventions. Another drawback is its poor accessibility. The Javits Center has no nearby subway service and is not within walking distance of restaurants and hotels.

The entire Hudson Yards area has remained underdeveloped for years in large part because of the lack of convenient

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A Smart Approach To Developing 'Smart Buildings'

By Lawrence J. Bartelemucci

In the ever-competitive real estate market, building owners and managers are constantly looking for ways to make their buildings look attractive to potential tenants. One approach that is becoming increasingly popular is the development of "smart buildings" through licenses to service providers. A smart building is one that is equipped with and offers a broad range of telecommunications options to its tenants, such as high-speed internet connections and direct office-to-office communications. In fact, as more companies become reliant on high-tech equipment, developing a smart building is becoming less an option and more a necessity to attracting and keeping tenants.

In addition to attracting tenants, developing a smart building can provide a supplemental source of income to owners in the form of rent from and, in some cases, revenue sharing with telecommunications companies with access to the building. Despite the numerous potential benefits, building owners and managers must be careful to avoid the pitfalls

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that can arise from licensing space to telecommunications companies. This article will give a brief outline of some of the issues that building owners and managers need to be aware of, but which are often not addressed in agreements offered by telecommunications companies.

•**Conduit Space.** In addition to the mere access that will be granted to the company providing telecommunications services, the company will require space for their operational equipment and connections to individual tenants. For such companies, riser space to situate the companies' wire-holding conduits is very important, but can also be very limited within a building. A building manager and owner must know how much riser space is available, how quickly the space can be used up, and how much space will be required by a telecommunications company.

•**Approval of Equipment Location.** Once it is decided that a telecommunications company will be granted permission to install its equipment, it is important that the building control where the company's equipment will be situated. Controlling the location of the equipment, by approval of construction plans, enables a building owner or manager to coordinate future construction as well as licensing to other telecommunications companies.

•**Right to Suspend License and Move Equipment.** Even after the location of equipment is approved by the building, circumstances may arise during the course of renovation or ordinary repairs that interfere with areas occupied by such equipment. To avoid any problems or disputes that may arise in such a case, it is important that the building reserve the right to require the telecommunications company to temporarily suspend its services, or even permanently relocate such equipment, if necessary, so that renovations and repairs can be made.

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subway service (The nearest north-south line is at Eighth Avenue and the nearest east-west service, the No. 7 train, terminates at Times Square).

These issues have been brought into sharp focus by the prospect of having New York host the 2012 Olympic Games. A key element of the city's plan for the games is a new stadium. The proposed location of the stadium is on top of the Long Island Railroad yard that extends from 30th Street to 33rd Street between 10th Avenue and the West Side Highway. Although consideration was given to having this stadium serve as expansion space for the Javits Center, that concept has been shelved in favor of an expansion of the convention center to the north. But the Jets are interested in the stadium after the Olympics, and the Hudson Yards area is being eyed as the possible site of a new Madison Square Garden.

A Critical Element—New Subway Service

Central to the stadium and any other significant new development in the Hudson Yards area is subway service. Plans are now under way to extend the No. 7 subway line westward and southward, then looping around in a northerly direction. The MTA is now looking at alternate routes and station locations and is conducting the required environmental review. When the subway line is opened, the area will be ripe for redevelopment at much higher densities than are now permitted by the zoning.

The Department of City Planning expects to have a zoning proposal ready sometime in late spring 2003. It will probably not be enacted into law before winter 2004-2005. Although the plans are still being refined, the Department of City Planning has given preliminary indications of what it intends to do. Much of the Hudson Yards area now zoned "M" (for manufacturing and related uses) will be rezoned to "C" (commercial, usually including residential uses) and "R" (residential and related uses). The Department has said that office buildings, to be situated at the edges of the area, are likely to be proposed at density levels similar to Midtown's. The core of the area will also be zoned for significant density increases.

What does this mean for the property owner in or near the Hudson Yards area? First and foremost, property values will increase dramatically as the range of uses is expanded and higher densities are proposed. Indeed, the very announcement of the City's intentions has undoubtedly already increased the level of real estate speculation in the area. But the area will not be redeveloped overnight. The Department of City

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Planning anticipates that the full build-out of the area will take another 35 or more years.

The Hudson Yards proposal will also have implications for adjacent areas. As the garment industry continues to shrink, buildings in the Garment District are likely to be converted to residential use, many within walking distance of the Hudson Yards area. Interest in the area north of 42nd Street to the west of 10th Avenue will intensify.

The Importance of Vigilance

What can a property owner do at this stage? The most important thing to do is follow the planning process closely, particularly when The Department of City Planning issues its zoning proposal. If a parcel is just outside a proposed higher or highest density zoning district, it may be possible to make the case that the district boundary should be relocated. If a special zoning district is proposed, the provisions of the zoning text should be carefully scrutinized. If the proposal contains provisions that negatively affect a particular parcel, it may be possible to make the city aware of the consequences, which are not always obvious to the drafters of zoning the zoning resolution. Furthermore, political pressures may result in changes to the proposal after it is released. For these reasons, affected property owners, including those in adjacent areas, should be sure to stay informed about the Hudson Yards plans. ■



Robert S. Cook is an attorney in the Real Estate Department in the New York office of Anderson Kill & Olick, PC. Mr. Cook's practice encompasses matters having to do with the development of land and use of buildings in the City of New York, as controlled by the Zoning Resolution, Landmarks Law, Building Code and the various agencies administering those laws.



Lawrence J. Bartelemucci is an attorney in the New York office of Anderson Kill & Olick, PC. Mr. Bartelemucci has extensive experience in the area of construction law, where he has drafted and negotiated numerous Owner-Builder, Construction Management, Architect and Design-Build agreements. He has also drafted and negotiated site-licensing agreements between real estate owners and telecommunications companies, and represented clients in both litigation and arbitration settings on a variety of construction and non-construction matters.

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•**Restoration and Removal.** It is likely that the installation of any equipment will physically affect the building in some way and occupy otherwise rentable space. It thus becomes important that at the end of the license term the telecommunications company be responsible for both removing its equipment and physically restoring the building after such removal so that the space can be re-rented.

•**Insurance.** The provision of services by a telecommunications company will likely require some construction and ongoing equipment operation. Accordingly, it becomes essential that the company be required to obtain adequate insurance *prior* to any construction taking place and, in some circumstances, throughout the term of the license, so that the building is protected should the equipment be negligently or improperly installed or operated.

•**Indemnification.** It is imperative that the building owner and manager be adequately protected from potential liability or loss resulting from damages to its own or third-party property caused by improper installation, maintenance or provision of services and equipment by the telecommunications company. To ensure such protection, it is essential that the extent of the company's responsibility be clearly set forth in the license agreement.

Lastly, building owners and managers should choose their licensees wisely. Although it may seem beneficial to offer tenants services from as many companies as possible, granting licenses to every company seeking to enter the building can have negative effects, as a company's ability to address the factors discussed above often depends on its stability. In addition, choosing the proper company will help to avoid inconveniencing tenants who otherwise might be forced to change companies frequently because services become unsatisfactory or unavailable. ■

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We hope you have enjoyed this issue of the *Real Estate & Construction Advisor*. We invite you to contact the members of our Group, listed below, with your questions and concerns.

Lawrence J. Bartelemucci	(212) 278-1883	lbartelemucci@andersonkill.com
Arnold L. Bartfeld	(212) 278-1511	abartfeld@andersonkill.com
Jonathan Bauer	(973) 642-5858	jbauer@andersonkill.com
John B. Berringer, Co-Chair	(212) 278-1500	jberringer@andersonkill.com
Robert S. Cook, Jr.	(212) 278-1203	rcook@andersonkill.com
James P. Cullen, Co-Chair	(212) 278-1565	jcullen@andersonkill.com
Jean M. Farrell	(212) 278-1222	jfarrell@andersonkill.com
Robert E. Frankel	(215) 568-4295	rfrankel@andersonkill.com
Jody L. Googel	(212) 278-1815	jgoogel@andersonkill.com
Thomas A. Neufeld, Editor	(212) 278-1840	tneufeld@andersonkill.com
John G. Nevius	(212) 278-1508	jnevius@andersonkill.com
Alexander Sokoloff	(212) 278-1708	asokoloff@andersonkill.com
Mark Weldon	(212) 278-1201	mweldon@andersonkill.com